Google Inc. et al v. Egger et al Doc. 289

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION	**No. M:06-cv-01791-VRW**
This Document Relates Only To: *Center for Constitutional Rights v. Bush*, (Case No. 07-1115)	**STIPULATION AND PROPOSED ORDER TO SET BRIEFING AND HEARING SCHEDULE IN CENTER FOR CONSTITUTIONAL RIGHTS V. BUSH, CASE NO. 07-1115** Courtroom: 6, 17th Floor Judge: Hon. Vaughn R. Walker

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RECITALS

1. *Center for Constitutional Rights v. Bush*, (Case No. 07-1115), is one of the actions pending in this multi-district litigation proceeding, transferred by order of the Judicial Panel on Multi-district Litigation from the United States District Court for the Southern District of New York. This case has been brought against officers of the United States Government in their official capacities and challenges alleged intelligence activities of the National Security Agency. *See CCR* Complaint (Docket for 07-1115, No. 1, Part 2).

2. The transfer of the *CCR* case to this Court was docketed on or about February 23, 2007. *See* Docket No. 1 (07-1115). Prior to its transfer from the Southern District of New York, the parties in *CCR* had briefed respective dispositive motions. The Defendants in *CCR* had filed a motion to dismiss or, in the alternative, for summary judgment, based on an assertion of the state secrets privilege by the United States. *See* Dkt. No. 1 (07-1115) at Parts 12-15. The Plaintiffs in *CCR* had filed a motion for partial summary judgment. *See id.* at Parts 5-9. The United States District Court for the Southern District of New York held a hearing on these pending motions on September 5, 2006, but did not decide the motions prior to the transfer of this case to this Court.

3. No schedule has previously been set in this MDL proceeding for consideration of the pending dispositive motions in the *CCR* case and no prior Order of the Court required any action in the *CCR* case.[1] Thus, upon taking account of the schedule of proceedings in other MDL cases, the parties in *CCR* have negotiated this stipulation for any further briefing and a hearing on the motions pending in *CCR*.

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[1] On February 20, 2007, the Court issued an order granting and denying in part a motion by the United States to stay all MDL proceedings pending resolution of an appeal in *Hepting v. AT&T*, Case No. 06-672. *See* Dkt. No. 172 (06-1791). In that order, the Court directed the defendants in pending MDL cases to answer or otherwise respond to the complaint in cases as to which a stay was not agreed upon no later than March 29, 2007. Since the Defendants in the *CCR* case had already responded to the Complaint in that case with the pending dispositive motion, no schedule for further proceedings was set or required by the Court's February 20 Order.

4. The Defendants and Plaintiffs in *CCR* have reached agreement on and seek the Court's approval of a schedule for the filing of any supplemental briefs in *CCR* and a hearing on pending motions in that case. Under the proposed schedule: (i) the Defendants in *CCR* would file a supplemental brief setting forth any additional points and authority concerning the status and disposition of the *CCR* case by June 8, 2007; (ii) Plaintiffs in *CCR* would file a response to any submission by the Defendants and their own supplemental points and authority by June 29, 2007; and (iii) Defendants would file a reply brief by July 20, 2007.

4. The parties also propose that the Court hear the pending motions in CCR on August 9, 2007. The parties also request that the pending motions in CCR be heard separately from pending motions in other cases in this MDL proceeding that are scheduled on other dates.[2]

STIPULATION

The Plaintiffs and Defendants in the *CCR* action, through their undersigned counsel, hereby stipulate to the following schedule and request that the Court make this stipulation an order of the Court:

1. On or before June 8, 2007, the Defendants in *CCR* will file any supplemental brief setting forth any additional points and authority concerning the status and disposition of the *CCR* case (07-1115).
2. On or before June 29, 2007, Plaintiffs in *CCR* will file a response to any submission by the Government and their own supplemental points and authority in support of their position on the pending motions.
3. Defendants will file a reply brief by July 20, 2007.
4. On August 9, 2007, at 2 p.m., oral argument will be held on the pending motions in the *CCR* case (07-1115).

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[2] The parties conferred with the Court's clerk and determined that the August 9 hearing date was available. However, if that date becomes unavailable, the parties request an opportunity to confer with each other and the Court before another date is set (in part because counsel for the Government is unavailable the following week).

DATED: May 24, 2007

Respectfully Submitted,

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By: *___/s Anthony J. Coppolino___*
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DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, ANTHONY J. COPPOLINO, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from each of the other signatories listed below.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on May 24, 2007, in the City of Washington, District of Columbia.

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Attorneys for Plaintiffs

[PROPOSED] ORDER

Pursuant to the foregoing stipulation, and good cause appearing, it is hereby ORDERED that:

1. On or before June 8, 2007, the Defendants in *CCR* will file any supplemental brief setting forth any additional points and authority concerning the status and disposition of the *CCR* case (07-1115).
2. On or before June 29, 2007, Plaintiffs in *CCR* will file a response to any submission by the Government and their own supplemental points and authority in support of their position on the pending motions.
3. Defendants will file a reply brief by July 20, 2007.
4. On August 9, 2007, at 2 p.m., oral argument will be held on the pending motions in the *CCR* case (07-1115).

IT IS SO ORDERED.

Dated: ________, 2007.

____
Hon. Vaughn R. Walker
United States District Chief Judge